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24 Attorneys for Defendant
25 NITEK International, LLC.

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17 UNITED STATES DISTRICT COURT
18 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
19 NETWORK VIDEO TECHNOLOGIES, INC.,) Case No. C 08 2208 MHP
20 Plaintiff,)
21 v.)
22 NITEK INTERNATIONAL, LLC and DOES 1-10)
23 Defendant.)
24 _____) Date: July 28, 2008
25) Time: 2:00 p.m.
26) Place: Courtroom 15, 18th Fl.
27)
28)

**DEFENDANT NITEK
INTERNATIONAL, LLC's NOTICE OF
MOTION AND MOTION TO DISMISS
COMPLAINT FOR LACK OF
SUBJECT MATTER JURISDICTION
UNDER F.R.C.P. 12(B)(1)**

1 PLEASE TAKE NOTICE THAT at xx a.m. on July 28, 2008, or as soon thereafter as
2 counsel may be heard, Defendant Nitek International, LLC ("NITEK") will and hereby does
3 move to dismiss the Complaint against it under Rules 12(b)(1) of the Federal Rules of Civil
4 Procedure.

5 This motion is based on the fact that there is no actual controversy to support subject
6 matter jurisdiction under the Declaratory Judgment Act, and therefore this action against NITEK
7 should be dismissed.

8 The motion is supported by a memorandum of points and authorities, the Declarations of
9 Edward L. Polanek (NITEK's Managing Member), George H. Gerstman (counsel to Nitek), Dan
10 Nitzan (NVT President), Chad Szekeres (NITEK's National Sales Manager), Carl Palash
11 (NITEK's Central Regional Sales Manager), the complete records and files of this action, the
12 arguments of counsel, and such other evidence and argument as the court may receive at the
13 hearing on this matter.

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15 DATED: June 9, 2008

SEYFARTH SHAW LLP
ROBERT S. NIEMANN
GEORGE H. GERSTMAN (Applied for *Pro Hac Vice*)
BRIAN MICHAELIS (Applied for *Pro Hac Vice*)

16 By _____
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Attnorneys for Defendant
NITEK INTERNATIONAL, LLC

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